IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.3587 OF 2003

Shri vasantdada Dugdh Vyavasay
Vikas Zilla Sahakari Sangh Ltd., ..Petitioner

V/s.

Shri Vasantdada Dugdh Vyavasay
Vikas Zilla Sahakari Karmachari
Sanghatana, Tasgaon, Dist.Sangli ..Respondent

Mr.K.S.Bapat for the petitioner.

Mr.M.S.Topkar for the Respondents.

Coram : R.M.LODHA &
R.S.MOHITE,JJ

Date : 2.5.2005.

PC

. Heard Mr. K.S.Bapat, the learned Advocate for the petitioner and Mr.M.S.Topkar, the learned Advocate for the respondent.

2. By the order dated 8.4.2003, the Industrial Court at Kolhapur allowed the application made by the present Respondent under Section 11 of the Maharashtra Recognition of Trade Union & Prevention of Unfair Labour Practice Act, 1971 (for short 'MRTU & PULP Act') for grant of recognition to that union.

3. The aforesaid order is under challenge at the

instance of the present petitioner. The learned Advocate for the petitioner advanced two-fold submission before us. First, he contended that the application made by the present respondent for its registration as a recognized union did not set out the information of their membership for the period of six calendar months from August-2000 to January-2001. The application was made on 2.4.2001 and it was required to set out in the application of the membership of the respondent union for the whole of the period of 6 calendar months immediately preceding the date of the application. According to the learned Advocate, therefore, the application made by the respondent union could not have been legally entertained and was liable to be rejected at threshold. The second contention of the learned Advocate for the petitioner is that the Industrial Court seriously erred in refusing to consider the affidavits filed by the petitioner union on the ground that the said affidavits were not sworn before the competent officer of the Industrial Court. The learned Advocate for the petitioner submits that the affidavits submitted by the petitioner were sworn before the Civil Court and ought to have been considered by the Industrial Court.

4. None of the contentions raised by the learned

Advocate for the petitioner impresses us.

5. It is true that the application was made on 2.4.2001 and in the application the details of the membership of the present respondent union were set out for the period from the month of August-2000 to January-2001 whereas the application ought to have set out the details of the membership from the months of October-2000 to March-2001. This aspect caught the attention to the Industrial Court. In its order dated 13.8.2002, the Industrial Court directed that membership from October-2000 to March-2001 is necessary and accordingly directed the Assistant Registrar (Investigating officer) to verify the record of the membership from the months October-2000 to March-2001. Accordingly, the Investigating officer verified the report of the months from October-2000 to March-2001. It is pertinent to note that neither in response to the notice of the application made by the present respondent under Section 11 of the MRTU & PULP Act, the present petitioner (respondent before the Industrial Court) raised any grievance that the application did not set out the details of the membership of the six calander months preceding the date of the application nor the petitioner challenged the order dated 13.8.2002 whereby the Industrial Court directed the verification of the

membership of the six calander months preceding the date of the application. It is too late in the day to challenge that in the application, the details of the membership for the whole of the period of 6 calander months immediately preceding the application were not made. The fact of the matter is that the Industrial Court examined the application for recognition of the union made by the present respondent in the light of the membership for the whole of the period of 6 calander months immediately preceding the date of the application. The first contention of the learned Advocate of the petitioner is, accordingly, overruled.

6. As regards the second contention, suffice it to say that the affidavits that were tendered by the present petitioner-union did not meet the requirements of Regulation 9 of the Industrial Court Regulation Act 1975. The sample affidavit has been placed on record by the petitioner at pages-44-45 of the paper book. The sample affidavit does not show that it has been verified by the competent officer or the person who was authorised to verify the said affidavit. By not placing reliance on such affidavits, the Industrial Court cannot be said to have committed any material irregularity or illegality. The Industrial Court also observed that none of the employees individually objected to the

grant of recognition to the present respondent-union.

7. All in all, the consideration of the matter by the Industrial Court cannot be said to suffer from any illegality warranting interference by this Court under Article 226 of the Constitution of India.

8. Writ petition is dismissed in limine.

(R.M.LODHA,J)

(R.S.MOHITE,J)